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09/848,941	05/04/2001	Kenneth L. Kramer	8266-0595	8492

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EXAMINER
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GOTTSCALK, MARTIN A

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/848,941

Applicant(s)

KRAMER ET AL.

Examiner

Martin A. Gottschalk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-28 and 34-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-28 and 34-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/17/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. Claims 25-28 and 34-56 are pending. Claims 1-24 and 29-33 have been cancelled.

### ***Election/Restrictions***

2. Applicant's election without traverse of claims 25-28 in the reply filed on 04/03/2006 is acknowledged.

Note: The Examiner notes that in the REMARKS section on pg 6 of the reply, Applicant elects claims "25-28" then subsequently cancels claims "28-33". For the purpose of examination, the Examiner will presume the intent was to cancel claims 29-33 and to elect claim 28.

### ***Claim Objections***

3. Examiner notes that it has been held that a recitation stating that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138 (CCPA 1946).

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It is recommended Applicant rephrase the claims in which “adapted to,” “permit”, or other such terms are used, so as to recite positively the desired limitation.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 25-28 and 34-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loosmore et al (US Pat# 5,682,142, hereinafter Loosmore).

A. As per claim 44, Loosmore discloses a bed-caregiver communication system comprising:

a communication network (Loosmore: col 3, lns 43-45);

a transceiver operably coupled (Loosmore: col 7, lns 50-53, reads on  
“attached to...equipment...”) to communicate an identification signal  
(Loosmore: col 2, 47-58) and to transmit an alert signal over the  
communication network (Loosmore: col 8, lns 1-16);

and

a caregiver badge associated with a caregiver (Loosmore: col 7, ln 50, Fig  
3, item 201), the caregiver badge including

a transmitter (Loosmore: col 4, lns 24-32)

to transmit a caregiver identification signal (Loosmore: col 7,  
lns 53-56; col 8, lns 1-5)

and

to receive alert signals (Loosmore: col 8, lns 5-16).

Loosmore fails to explicitly disclose, but suggests

a bed with a bed transceiver which can transmit an alert from the bed (Loosmore: col 2, lns 5-9, note the invention is directed to "...location and identification of objects..."; col 7, lns 50-56, note the identified use in a hospital and that the, "Tag nodes... may...be attached to crucial movable equipment for...identification and location...". The Examiner considers a hospital bed to be a crucial piece of medical equipment.; col 7, lns 57-58, note the disclosure that patients are located in beds; col 8, lns 5-16, note the tag is attached to a piece of equipment to locate the equipment, and that an alert can be sent given certain conditions such as a missed dosage.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to attach the tags of Loosmore to a hospital bed, with the motivation of identifying and tracking its location since a hospital bed is a crucial piece of medical equipment (Loosmore: col 7, lns 50-57).

B. As per claim 45, discloses the system of claim 44 further comprising

a master station (Loosmore: col 2, lns 14-20, reads on "FPN") adapted to

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receive an alarm condition for a monitoring device coupled to the bed and cause the alarm condition to be transmitted to the badge associated with the caregiver for the patient that corresponds to the monitoring device (Loosmore: col 8, lns 1-16).

C. As per claim 46, Loosmore discloses the system of claim 44, wherein the monitoring device

monitors status of the bed and generates the alarm condition if an undesirable

bed,

patient (Loosmore: col 7, lns 57-59, i.e. patient getting out of bed is undesirable),

or

treatment device

state is sensed.

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D. As per claim 47, Loosmore discloses the system of claim 44, wherein the caregiver badge is configured to

display a visual indicator of the alarm signal (Loosmore: col 2, lns 66-67; col 7, lns 17-21).

E. As per claim 48, Loosmore fails to explicitly disclose the features of the claim, however Loosmore suggests these features, namely

the system of claim 44, wherein the caregiver badge is configured to permit voice communication between the caregiver and at least one of the patient associated with the bed and another caregiver (Loosmore: col 4, lns 42-45. The Examiner notes that, "I/O devices" which "provide a human interface" might include an interface permitting voice communication. Just as a "keypad, and display" could be connected, so, for example, could a microphone.).

It would have been obvious at the time of the invention to include voice communications, as suggested by the Loosmore reference, within the system taught by Loosmore with the motivation of providing a human interface to the system (Loosmore: col 4, lns 42-45).



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F. As per claim 49, Loosmore discloses the system of claim 44 further comprising

a transmitter that is adapted to transmit an identification signal identifying  
a caregiver associated with the remote control to the master station  
(Loosmore: col 8, Ins 1-16).

G. As per claim 50, Loosmore discloses the system of claim 44, wherein the  
caregiver badge transmitter

transmits the caregiver identification signal to a master station via at least  
one of a plurality of transceivers (Loosmore: col 8, Ins 1-16).

H. As per claim 51, Loosmore discloses the system of claim 44, further  
comprising

a master station which sends the alert signal to the caregiver badge  
(Loosmore: col 8, Ins 10 - 16).

I. As per claim 52, Loosmore discloses the system of claim 51, wherein the  
receiver of the caregiver badge

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receives the alert signal via at least one of the plurality of transceivers

(Loosmore: col 8, Ins 10-16).

J. As per claim 53, Loosmore discloses the system claim 51, wherein the master station is adapted to

route the alert signal to the caregiver for a bed in a different room than the caregiver in response to determining that the caregiver is assigned to care for the patient that is associated with the bed that generated the alert signal (Loosmore: col 7, Ins 57-67. The Examiner notes that the system monitors caregiver location, and routes communication to them wherever they are.).

K. As per claim 54, Loosmore discloses the system of claim 44, wherein the bed includes

a badge (Loosmore: col 7, In 50, Fig 3, item 201) including a

transmitter to transmit the bed identification signal to a transceiver coupled to the communication network (Loosmore: col 7, Ins 50-53, bed reads on "attached to...equipment..."; similarly, col 8, Ins 5-7).

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L. As per claim 55 Loosmore discloses the system of claim 44, wherein the communication network is

a wireless network (Loosmore: col 3, Ins 43-45).

M. As per claim 56, Loosmore discloses the system of claim 44, further comprising

a plurality of monitoring devices including at least one of

a bed sensor,

brake sensor,

bed exit device,

patient position device (Loosmore: col 7, Ins 57-59).

ground fault device,

drug administration device,

folly bag device

and

incontinence device

configured to transmit alarm conditions over the communication network.

N. Claims 25-28 and 34-43 substantially repeat the same limitations recited in claims 44-56 and are thus rejected for the same reasons provided above and incorporated herein.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art discloses sensors and communication systems associated with beds (US Pat#s 3,943,918; 5,144,284; 5,844,488; 5,600,305).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin A. Gottschalk whose telephone number is (571) 272-7030. The examiner can normally be reached on Mon - Thurs 8:30 -6 and alternate Fri 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MG  
05/04/2006



C. LUKE GILLIGAN  
PATENT EXAMINER